

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

JOE WALLACE PEELES, III,

Petitioner,

v.

//

CIVIL ACTION NO. 1:14CV5
(Judge Keeley)

TERRY O'BRIEN, Warden,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 18]

On January 6, 2014, the pro se petitioner, Joe Wallace Peeples, III ("Peeples"), filed an application for habeas corpus pursuant to 28 U.S.C. § 2241. The Court referred this matter to United States Magistrate Judge James E. Seibert for initial screening and a Report and Recommendation ("R&R") in accordance with LR PL P 2.

On March 4, 2014, Magistrate Judge Seibert issued an R&R, in which he recommended that Peeples' § 2241 petition be denied without prejudice and that all pending motions be denied as moot. (Dkt. No. 18). The magistrate judge determined that Peeples is not entitled to file the instant § 2241 action because he is not contesting the validity of his arrest or incarceration.¹

Although the R&R specifically warned Peeples that his failure to object to the recommendations would result in the waiver of any

¹The magistrate judge also informed Peeples of his right to re-file his complaint as a Bivens action.

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appellate rights he might otherwise have on these issues. Peeples did not object to any of the magistrate judge's recommendations.² Consequently, finding no clear error, the Court **ADOPTS** the Report and Recommendation in its entirety, (dkt. no. 18), **DENIES WITHOUT PREJUDICE** the § 2241 petition, (dkt. no 1), **DENIES AS MOOT** all pending motions, and **ORDERS** that this case be **DISMISSED WITHOUT PREJUDICE** and stricken from the Court's active docket.

It is so **ORDERED**.

Pursuant to Fed. R. Civ. P. 58, the Court directs the Clerk of Court to enter a separate judgment order and to transmit copies of both orders to counsel of record and to the pro se petitioner, certified mail, return receipt requested.

Dated: April 23, 2014.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE

²Even though Peeples did file an "objection" to the magistrate judge's R&R, (dkt. no. 21), his objection was made solely to note that he was being truthful about the claims contained in his complaint. He conceded in his objection that he did not oppose any of the magistrate judge's recommendations. Id.